

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 10702. Authority for rail carriers to establish rates, classifications, rules, and practices

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall establish reasonable—

- (1) rates, to the extent required by section 10707, divisions of joint rates, and classifications for transportation and service it may provide under this part; and
- (2) rules and practices on matters related to that transportation or service.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810.)

PRIOR PROVISIONS

A prior section 10702, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1372; Pub. L. 103-180, §6(a), Dec. 3, 1993, 107 Stat. 2050; Pub. L. 103-311, title II, §206(a), Aug. 26, 1994, 108 Stat. 1684, related to authority for carriers to establish rates, classifications, rules, and practices, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10702 and 15502 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 10703. Authority for rail carriers to establish through routes

Rail carriers providing transportation subject to the jurisdiction of the Board under this part shall establish through routes (including physical connections) with each other and with water carriers providing transportation subject to chapter 137, shall establish rates and classifications applicable to those routes, and shall establish rules for their operation and provide—

- (1) reasonable facilities for operating the through route; and
- (2) reasonable compensation to persons entitled to compensation for services related to the through route.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810.)

PRIOR PROVISIONS

A prior section 10703, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1372; Pub. L. 96-296, §22(a), (h), July 1, 1980, 94 Stat. 812, 814; Pub. L. 97-449, §5(g)(5), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98-216, §2(11), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99-521, §7(a), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103-272, §5(m)(21), July 5, 1994, 108 Stat. 1377, related to authority for carriers to establish through routes, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10703 and 13705 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

(a)(1) When the Board, after a full hearing, decides that a rate charged or collected by a rail

carrier for transportation subject to the jurisdiction of the Board under this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the maximum rate, classification, rule, or practice to be followed. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

(2) The Board shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, for the infrastructure and investment needed to meet the present and future demand for rail services and to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Board shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

(3) On the basis of the standards and procedures described in paragraph (2), the Board shall annually determine which rail carriers are earning adequate revenues.

(b) The Board may begin a proceeding under this section only on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Board.

(c) In a proceeding to challenge the reasonableness of a rate, the Board shall make its determination as to the reasonableness of the challenged rate—

(1) within 9 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation; or

(2) within 6 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to section 10701(d)(3).

(d)(1) The Board shall maintain procedures to ensure the expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and exemption or revocation proceedings, including appropriate sanctions for such delay, and for ensuring prompt disposition of motions and interlocutory administrative appeals.